

REMARKS

Claims 1-20, 22-28 and 34-40 are pending in the present application. Claims 1-20 and 40 are currently withdrawn from consideration as directed to a nonelected invention. Claim 22 is amended herein for clarity, to more particularly define the invention and claim 25 is amended herein to correct an inadvertent typographical error. In addition, new claim 41 is added herein. Support for the amendment to claim 22 and new claim 41 is found in the language of the original claims and throughout the specification. For example, support for the amendment to claim 22 is found at least on page 8, lines 19-20, and support for new claim 41 is found at least in originally filed claim 22, and on page 8, lines 19-20, and throughout the Examples. Applicants submit that no new matter is introduced by the amendments and new claim and their entry and consideration are respectfully requested. In light of the amendments, new claim and the following remarks, Applicants respectfully request reconsideration of this application and allowance of the pending claims to issue.

Recordation of Interview Summary in accordance with M.P.E.P. § 713.04

Applicants wish to make of record the Interview Summary prepared and submitted to Applicants by Examiner Cole on January 29, 2007. Applicants concur that this Interview Summary accurately reflects the substance of the telephone interview on January 17, 2007 in which Examiner Cole and Applicants's representative, Dr. Lori W. Herman, participated.

Rejection of Claims 22-28 and 34-39 under 35 U.S.C. §112, second paragraph

The Office Action states that claims 22-28 and 34-39 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. *Office Action*, page 2. The Office Action alleges that the scope of the claims, which recite a product "obtained or obtainable" by a process, is unclear because it is not clear if the claims are claiming a product which is made by the claimed process or which may or may not be made by the claimed product. *Id.*

Applicants respectfully disagree with this assertion. However, in order to expedite prosecution, claim 22 is amended herein to remove the recitation of "or obtainable." Thus, Applicants believe the present rejection is overcome and respectfully request its withdrawal.

Rejection of Claims 21, 23-25 and 34-39 under 35 U.S.C. §102(b) as anticipated by JP '490

The Office Action states that claims 21, 23-25 and 34-39 stand rejected under 35 U.S.C. §102(b) as allegedly being anticipated by JP 09285490 ("JP '490") because, according to the Office Action, JP '490 discloses an elastic nonwoven web comprising a bicomponent fiber which comprises polypropylene and an elastomeric component. *Office Action*, page 2.

Applicants respectfully disagree with this assertion. As an initial point, Applicants note that claim 21 was canceled without prejudice in Applicants's response to the Office Action dated March 8, 2006. Therefore, Applicants submit that this rejection is moot as it applies to claim 21. Thus, the rejection will only be discussed in reference to claims 23-25 and 34-39.

Furthermore, as Applicants described in response to the Office Action dated March 8, 2006, the processes recited in claims 23-25 and 34-39 create an elastic thermally bonded nonwoven web with a particular structure, which is a structure that is not disclosed in JP '490. Furthermore, JP '490 does not describe a nonwoven web with an elasticity in the cross direction of at least 70% recovery from a 100% elongation, and at least 60% recovery from a 150% elongation.

However, in order to expedite prosecution of this Application, claims 23-25 and 34-39, as currently presented, recite an elastic thermally bonded nonwoven web consisting essentially of non-elastomeric fibers. As the Office Action admits, JP '490 describes an elastic non-woven fabric that includes an elastomeric component. *Office Action*, page 2. Thus, JP '490 does not disclose an elastic thermally bonded nonwoven web consisting essentially of non-elastomeric

fibers, as the elastomeric fibers in JP '490 clearly affect the basic and novel characteristics of the fabric. As one of skill in the art would readily understand, the elastomeric fibers in JP '490 are necessary to provide elasticity to the fabric. In contrast, as Applicants describe in the instant specification, one of the benefits of the presently claimed invention is that it does not require elastomeric fibers, which may be expensive, allergenic and/or environmentally unsafe... *Specification*, page 8, lines 19-20.

Therefore, Applicants believe the present rejection is now overcome and respectfully request its withdrawal.

Rejection of Claims 22-25 and 34-39 under 35 U.S.C. §102(b)/103(a) in view of JP '490

The Office Action states that claims 22-25 and 34-39 stand rejected under 35 U.S.C. §102(b) as allegedly being anticipated by; or in the alternative, under 35 U.S.C. §103(a), as allegedly being obvious over JP '490. *Office Action*, page 3. The Office Action states that JP '490 discloses an elastic nonwoven fabric, but does not disclose the particular elongation and recovery set forth in claims 22 and 23. *Office Action*, page 3. However, the Office Action alleges that "...since JP '490 teaches the same structure, it is reasonable to presume that the material of JP '490 would necessarily have the same properties." *Id.*

Applicants respectfully disagree with this assertion. As Applicants pointed out in their response to the Office Action dated March 8, 2006, there is no teaching or suggestion in JP '490 of a web having an elasticity in the cross direction of at least 70% recovery from a 100% elongation, and at least 60% recovery from a 150% elongation. In addition, as described above, the structure of the web recited in claim 22 is different than the elastic nonwoven fabric described in JP '490 and therefore one of ordinary skill in the art would not assume that the elastic nonwoven fabric in JP '490 has the same properties as the web recited in claim 22.

However, in order to expedite prosecution of this Application, claims 23-25 and 34-39, as currently presented, recite an elastic thermally bonded nonwoven web consisting essentially of non-elastomeric fibers. As the Office Action admits, JP '490 describes an elastic non-woven fabric that includes an elastomeric component. Thus, JP '490 does not disclose an elastic thermally bonded nonwoven web consisting essentially of non-elastomeric fibers, as the elastomeric fibers in JP '490 clearly affect the basic and novel characteristics of the fabric. In fact, as one of skill in the art would readily understand, the elastomeric fibers in JP '490 are necessary to provide elasticity to the fabric. In contrast, one of the benefits of the presently claimed invention is that it does not require elastomeric fibers, which may be expensive, allergenic and/or environmentally unsafe. *Specification*, page 8, lines 19-20

Therefore, Applicants believe the present rejection is now overcome and respectfully request its withdrawal.

Rejection of Claims 22-23, 26-28 and 35-39 under 35 U.S.C. §102(b)/103(a) in view of Erdos

The Office Action states that claims 22-23, 26-28 and 35-39 stand rejected under 35 U.S.C. §102(b) as allegedly being anticipated by, or in the alternative, under 35 U.S.C. §103(a), as allegedly being obvious over U.S. Patent Application Publication No. 2002/0056510 to Erdos et al. ("Erdos"). *Office Action*, page 5. The Office Action alleges that Erdos anticipates or renders claims 22-23, 26-28 and 35-39 obvious because Erdos discloses an elastic nonwoven fabric laminate, wherein the laminate has a CD elongation of at least 120% and recovery of at least 80% after elongation of 100%. *Id.*

Applicants respectfully disagree with these assertions. As Applicants described in their response to the Office Action dated March 8, 2006, Erdos does not anticipate or render claims 22-23, 26-28 and 35-39 obvious at least for the reasons that 1) Erdos does not describe an elastic thermally bonded nonwoven web with at least 60% recovery from a 150% elongation; and 2) Erdos does not describe a nonwoven web formed by the recited process, and thus does not describe a nonwoven web with the same structure as the web recited in claim 22.

Nonetheless, in order to expedite prosecution of this Application, claims 22-23, 26-28 and 35-39, as currently presented, recite an elastic thermally bonded nonwoven web consisting essentially of non-elastomeric fibers. As the Office Action admits, Erdos only describes an elastic nonwoven fabric laminate, and Erdos specifically states that the laminate includes an elastic vinylidene isoprene polymer film. *Erdos*, Abstract. Therefore, the laminate of Erdos does not consist essentially of non-elastomeric fibers, as the elastic vinylidene isoprene polymer film clearly affects the basic and novel characteristics of the fabric. In fact, Erdos describes that the “fabrics of the invention are able to achieve a relatively gentle retractive force through their unique method of fabrication; in particular due to the use of the vinylidene isoprene film of the invention.” *Erdos*, para. 51. In contrast, one of the benefits of the present invention is that potentially expensive, allergenic and environmentally unsafe elastomeric fibers are not necessary for the impartation of elastic properties to the web. *Specification*, page 8, lines 19-20.

Thus, Applicants believe the present rejection is now overcome and respectfully request its withdrawal.

Rejection of claims 22-28 and 35-39 under 35 U.S.C. 103(a) over Erdos in view of JP ‘490

Claims 22-28 and 35-39 stand rejected under 35 U.S.C. §103(a) as allegedly obvious over Erdos in view of JP ‘490. *Office Action*, page 6. The Office Action alleges that Erdos describes an elastic fabric laminate, but does not teach employing conjugate fibers in the nonwoven web. *Id.* However, the Office Action alleges that JP ‘490 teaches that bicomponent

fibers can be employed in forming elastic nonwovens and therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed bicomponent fibers in the nowoven of Erdos. *Id.*

Applicants respectfully disagree with these assertions. At the outset, Applicants note that only claims 24 and 25 recite co-filament fibers, and as such, Applicants believe this rejection only applies to claims 24 and 25. Nonetheless, as Applicants maintain that Erdos neither anticipates nor renders claims 22-28 and 35-39 obvious, as described above, and JP '490 is only cited as providing bicomponent fibers, Applicants submit that JP '490 does not remedy the deficiencies of Erdos. Thus, Erdos in view of JP '490 does not render any of claims 22-28 and 35-39 obvious.

However, in order to expedite prosecution of this Application, claims 22-28 and 35-39, as currently presented, recite an elastic thermally bonded nonwoven web consisting essentially of non-elastomeric fibers. As the Office Action admits, Erdos only describes an elastic nonwoven fabric laminate, and Erdos specifically states that the laminate includes an elastic vinylidene isoprene polymer film. *Erdos*, Abstract. Therefore, the laminate of Erdos does not consist essentially of non-elastomeric fibers, as the elastic vinylidene isoprene polymer film clearly affects the basic and novel characteristics of the fabric. Furthermore, JP '490 is only recited as disclosing bicomponent fibers in an elastic nonwoven fabric, and thus, does not remedy the deficiencies of Erdos.

Thus, Applicants believe the present rejection is now overcome and respectfully request its withdrawal.

New Claim 41

New claim 41 recites an elastic thermally bonded nonwoven web consisting essentially of monofilament non-elastomeric fibers, which has an elasticity in the cross direction of at least 70% recovery from a 100% elongation, and at least 60% recovery from a 150% elongation.

Applicants submit that new claim 41 is patentable over JP '490 and Erdos for the reasons described above. Specifically, the elastic thermally bonded nonwoven web recited in claim 41 consists essentially of monofilament non-elastomeric fibers. In contrast, JP '490 describes a bicomponent fiber *including an elastomeric component*, and thus does not consist essentially of monofilament non-elastomeric fibers. Furthermore, Erdos describes a laminate including an *elastic* vinylidene isoprene polymer film, and thus also does not consist essentially of monofilament non-elastomeric fibers.

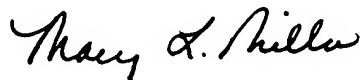
Therefore, Applicants believe new claim 41 is patentable over the cited references and the entry and allowance of this new claim is respectfully requested.

CONCLUSION

Having addressed all of the issues raised by the Examiner in the pending Office Action, Applicants believe that the claims as presented herein are in condition for allowance, which action is respectfully requested. The Examiner is invited and encouraged to contact the undersigned directly if such contact will expedite the prosecution of the pending claims to issue.

A check in the amount of \$1240.00 (\$450.00 fee for a two month extension of time and \$790.00 fee for a Request for Continued Examination for a large entity) is enclosed. This amount is believed to be correct. However, the Commissioner is authorized to charge any deficiency associated with this filing or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,



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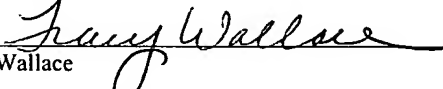
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